

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Invention II (claims 1-20 and 22) in the reply filed on 07/21/2009 is acknowledged.
2. Claim 21 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 07/21/2009.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 6-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Giacona, III (PGPub 2005/0092789).
5. [Claims 1-4, 6-8, and 14] Giacona, III teaches a device and method for retaining objects about a person (figure 1, item 10) (attaching an object to said lower section) (figures 1 and 2) comprising a length of material (a chain of linked elements) (figure 1, items 11 and 26) joined together so as to form an upper section (figure 1, item 11) and a lower section (figure 1, item 26), wherein said upper section is dimensioned to fit over a user's head (figure 2), and wherein a medical appliance is capable of being attached to said lower section (figures 3 and 4); further comprising a first (figure 1, item 28) and a second end (figure 1, item 29) joined together by a smooth splice (figure 1, items 15 and

30; paragraph [0109]), thereby forming a continuous loop comprising a top section and a bottom section (figure 1), wherein said splice has a diameter and said length of material has a diameter, and wherein said splice diameter is approximately equal to said length of material diameter (figure 1).

6. [Claims 9-11 and 15-17] Giacona, III teaches the limitations of claims 8 and 14, upon which claims 9-11 and 15-17 depend. In addition, Giacona, III discloses a bottom section comprising at least two segments of said length of material gathered together which lie proximate and parallel to one another (figure 1).

7. [Claims 12, 13, 18 and 19] Giacona, III teaches the limitations of claims 9 and 16, upon which claims 12, 13, 18, and 19 depend. Giacona, III further teaches at least one clasp for securing the at least two segments together (figure 1, item 36).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giacona, III (PGPub 2005/0092789).

11. [Claim 5] Giacona, III teaches the limitations of claim 1, upon which claim 5 depends. Giacona, III does not specifically disclose the length of material is formed from nylon. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize nylon as a material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

12. Claims 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giacona, III (PGPub 2005/0092789), in view of Millen (USPN 6,129,709).

13. [Claim 20] Giacona, III teaches the method steps of claim 14, upon which claim 20 depends. Although Giacona, III teaches attaching an article through the bottom loop of the support apparatus, Giacona, III does not specifically disclose pinning the object to the lower portion via at least one safety pin. However, Millen teaches a suspension apparatus for supporting medical devices wherein medical appliances are attached via at least one safety pin (figures 1a and 2, item 150; column 3, lines 54-64). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the structure taught by Giacona, III, with the use of safety pins, as taught by Millen, in order to provide an alternative means of attaching items to the supporting structure.

14. [Claim 22] Giacona, III teaches a device and method for retaining objects about a person (figure 1, item 10) comprising a length of material joined together (figure 1,

items 11 and 26) forming a spliced loop (figure 1, items 15 and 30; paragraph [0109]), said spliced loop further comprising at least two segments of said length of material, wherein said at least two segments lie proximate and parallel one another (figure 1), wherein said length of material has first end (figure 1, item 28) and second end (figure 1, item 29). Although Giacona, III teaches attaching an article through the bottom loop of the support apparatus, Giacona, III does not specifically disclose at least one fastener for attaching items to the first and second end. However, Millen teaches a suspension apparatus for supporting medical devices wherein medical appliances are attached via at least one fastener (figures 1a and 2, item 150; column 3, lines 54-64). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the structure taught by Giacona, III, with the use of fasteners, as taught by Millen, in order to provide an alternative means of attaching items to the supporting structure.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON FLICK whose telephone number is (571)270-7024. The examiner can normally be reached on Monday through Thursday, 7:00am to 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. F./
Examiner, Art Unit 3763
01/12/2010

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763